



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

WA 2302
1/28/98
5a

RECEIVED

JAN 29 1998

RCRA Compliance Section

FILE COPY

Reply To
Attn Of: ORC-158

January 28, 1998

VIA TELEFAX & FIRST CLASS MAIL

Charles R. Blumenfeld
Bogle & Gates, P.L.L.C.
Two Union Square
601 Union Street
Seattle, Washington 98101-2346

Re: Rhone-Poulenc, Inc. Administrative Order on Consent for Corrective Action ("AOC")
Docket No. 1091-11-20-3008(h)

Dear Mr. Blumenfeld:

This letter is in response to your letter dated January 22, 1998, and addresses a couple of other issues relating to this matter.

First, you have enclosed with your January 22, 1998 letter a letter from Richard Torrito to Lori Houck. The letter from Mr. Torrito to Ms. Houck is dated October 1 and mentions the sampling Rhone-Poulenc conducted that day. You have stated that the October 1 letter is submitted in response to comments made by me that Rhone-Poulenc did not provide notice to the agency of this sampling event. In addition, you have related two conversations between Sylvia Burges and Edwin Liu regarding the sampling event in your January 22, 1998 letter.

I was aware of the information that you have provided in your January 22, 1998 letter. My comments regarding Rhone-Poulenc's failure to comply with Paragraph 11.2, page 51 of the AOC are appropriate regardless of the information you have provided. Paragraph 11.2 requires Rhone-Poulenc to notify EPA of sampling in writing at least ten (10) days prior to the sampling event. The only exception to this process allowing telephone authorization that is provided by Paragraph 11.2 is if Respondent believes it must commence emergency field activities. No such need for emergency field activities existed in the instance in question.

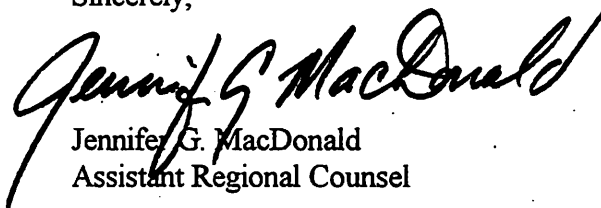
The process you describe in your January 22, 1998 letter - that is, discussing a proposed action with the agency, seeking verbal approval and confirming the course of action in writing - is consistent with the requirements of the AOC. The only omission in the instance in question was the confirmation of the course of action in writing at least ten (10) days prior to the event, as required by the AOC. To reiterate, by such omission, Rhone-Poulenc risks being deemed in violation of the AOC. EPA does not intend further action on this matter at this time, but is simply warning Rhone-Poulenc that such an omission should be avoided in the future.

In addition, we indicated that we would respond regarding whether EPA would agree to have future meetings taped. Rhone-Poulenc's request was made in response to EPA's comment in its November 14, 1997 letter that EPA does not accept the minutes as the unbiased recording of the discussion at the meeting. The purpose of EPA's comment was to clarify that Rhone-Poulenc should not rely on any oral discussion, regardless of how recorded, and should rely solely on written communications conveyed to the company, in accordance with the AOC. EPA has no objection to Rhone-Poulenc taking minutes of the meeting, however, Rhone-Poulenc should realize such minutes have limited purpose regardless of how they are recorded. It is EPA's preference that future meetings not be taped. We view meetings as an opportunity to engage in an exchange of information that is useful for both parties, but not, generally, as a place for decisions to be made regarding the requirements of the AOC.

Finally, on page 2 of EPA's December 12, 1997 letter from Sylvia Burges to Edwin Liu, EPA points out that although the Chain of Custody forms submitted with the Groundwater Sampling Report indicate that samples were obtained for the analysis of "metals-misc.", values are provided in the report for manganese and iron only. We asked in that letter to be advised regarding what other metals were analyzed and/or quantified by the laboratory. Please respond to this request or let us know whether any other metals were analyzed and or quantified as soon as possible.

If you have any questions, please contact me at (206) 553-8311. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, reading "Jennifer G. MacDonald". The signature is fluid and cursive, with the first name "Jennifer" and last name "MacDonald" clearly legible. The middle initial "G." is smaller and less distinct. The signature is positioned above the printed name and title.

Jennifer G. MacDonald
Assistant Regional Counsel